

Chiropractic Fellowship of PA Summary of Legislation May 2018

Surprises Accompany Expected Results in May Primary Elections

In another primary election marked by depressingly low turnouts in most areas of the state, incumbents at all levels of state government were dealt crushing defeats, while simultaneously held special elections to fill vacant seats served as precursors to fall campaigns on May 15.

State **Sen. Scott Wagner** and businessman **Jeff Bartos** ran as a ticket, and the strategy appears to have worked, as both won their respective primaries. Wagner won with 44% over businessman Paul Mango (37%), and Allegheny County attorney Laura Ellsworth (19%). Bartos received 47% of the vote while Kathleen Coder had 22%, Diana Irey Vaughan had 18%, and Peg Luksik had 14%. Wagner and Bartos will face off against incumbent Democrat **Gov. Tom Wolf**, who will have a new running mate, as Braddock Mayor **John Fetterman** defeated incumbent **Lieutenant Governor Mike Stack** and three other candidates to become Governor Tom Wolf's running mate in the fall. Stack finished a dismal fourth, with only 19% of the vote, becoming the first sitting Lt. Governor to lose re-election, since second terms have been allowed. Stack had been under siege since last year, when reports of mistreatment of his staff by Stack and his wife led to his security detail being removed by Gov. Wolf.

In the other statewide primary held this month, **Congressman Lou Barletta** won the Republican primary for U.S. Senate over state Rep. Jim Christiana 63%-37%, and will face incumbent Democrat **Senator Bob Casey**. Barletta's surprisingly close vote over a lesser known and less well funded challenger despite having the endorsement of the state party and President Donald Trump, has raised concern for Republicans, in a race that was thought to be competitive going in.

In a bad night for Allegheny County incumbents, Democratic **state Reps. Dom Costa and Paul Costa**, and Republican state **Sen. Randy Vulakovich** all lost to primary challengers, from the extreme wings of their parties.

In Philadelphia, freshman State **Rep. Emilio Vazquez (D-197)**, finished a distant third against two challengers. Vazquez won a write-in campaign in a special election to replace former Rep. Leslie Acosta in March 2017. The Democratic nominee and presumptive general election winner is **Danilo Burgos**, a former aide to Councilwoman Maria Quiñones-Sánchez. Vazquez has vowed to run again in 2020.

Tuesday's special elections for State House saw and Democrats Republicans essentially trade the 48th and the 178th districts, while Republicans "held serve" in a third. In **48th** House district in Washington County, Republican **Tim O'Neal** handily defeated Democrat **Clark Mitchell**, 55% to 44%. The seat was formerly held by Democratic state Rep. Brandon Neuman who vacated the seat after winning a Washington County judgeship. Mitchell will have a second shot at O'Neal in November, as he won the Democratic primary. In the **178th** in Bucks County, Democrat **Helen Tai** narrowly defeated Republican **Wendi Thomas**, continuing inroads made by Bucks County Democrats in the 2017 county elections. The seat had been vacated earlier this year when former Republican State **Rep. Scott Petri** was named to head the Philadelphia Parking Authority. Tai and Thomas will face off again in November, as the nominees for their respective parties in the General election.

Meanwhile in in the conservative Northern Tier **68th** district, Republican **Clint Owlett** defeated Democrat **Carrie Heath** by a 3-to-1 margin. The seat was vacated when **Rep. Matt Baker** took a position with the US Department of Health and Human Services earlier this year. As in the other two races, the two candidates will meet again in November.

Medical Assistance Advisory Committee May Meeting Notes

The Medical Assistance Advisory Committee (MAAC) held its regular monthly meeting on May 24. Here are some highlights.

Chairman Russ McDaid, Pennsylvania Health Care Association, was joined by the following MAAC members:
• **Kathy Cubit, Center for Advocacy for the Rights and Interests of the Elderly**

- Sally Kozak, deputy secretary, Office of Medical Assistance Programs
 - Dennis Olmstead, Pennsylvania Medical Society
 - Jeffrey Bechtel, Hospital & Healthsystem Association of Pennsylvania
 - Joseph Glinka, Gateway Health
 - Dr. Mark Goldstein, Pennsylvania Dental Association
 - Sonia Brookins, Philadelphia Welfare Rights Organization
 - Richard Edley, Rehabilitation and Community Providers Association
 - Coleen Kayden, Pennsylvania Pharmacists Association
 - Nancy Murray, The Arc of Greater Pittsburgh
- Others participating included:**
- Dan De Lellis, Bureau of Policy Analysis and Planning at Office of Medical Assistance Programs
 - Laval Miller-Wilson, Pennsylvania Health Law Project
 - Jonathan Encarnacion, UPMC Health Plan
 - Fred Hess, Managed Long-Term Services and Supports Subcommittee Chair
 - Janel Gleeson, Pennsylvania Homecare Association
 - Jim Willshier, Director of Policy and Partnership for Pennsylvania Association of Community Health Centers

Minutes from the April 26, 2018, meeting were unanimously approved.

Kozak provided an Office of Medical Assistance Programs (OMAP) update focused on **HealthChoices procurement, value based purchasing, and electronic visit verification (EVV)**. On HealthChoices procurement, she explained that on April 10 and 11 the department received the decision from Commonwealth Court reversing the department's final bid protest determinations filed by UnitedHealth and Vista Health Plan, specifically citing a section of the procurement code to cancel the request for proposal (RFP). Kozak maintained the department will be evaluating next steps over the next few months while operating in the existing HealthChoices agreement and will conduct due diligence for changes to future RFPs.

On **value based purchasing**, Kozak explained agreements in HealthChoices procurement moved towards value based purchasing including requirements regarding percentages of different arrangements managed care organizations (MCOs) must have and how to proceed over the next three years, with the goal eventually being 30 percent of MCO networks having value based purchasing. She asserted the department has been reaching out and holding sessions on the matter, first with commercial and Medicaid health care organizations and MCOs in February and two weeks ago with providers, which have garnered valuable feedback. Kozak indicated providers are generally in favor of moving forward with value based purchasing but had concerns with risk management data and offered constructive ideas for unified performance measures. Lastly she mentioned another forum scheduled for mid-June to target behavioral health providers, with an update on the topic coming after that.

Turning to subcommittee reports, **Miller-Wilson** provided an extensive update on Wednesday's meeting of the **Consumer Subcommittee**, which was held in Pittsburgh. He remarked on the unprecedented nature of the meeting and said the subcommittee received a lot of feedback from the many consumers who attended the meeting. He reported there is a lot of anxiety in the southwest among CHC participants and they also heard from vocal providers. He said many of the stories were "challenging", relaying while there has been a lot of talk about the success of the roll-out of CHC, many people came and shared what is not working. He lamented the vision for person-centered planning is not getting realized and, for example, said assessments taking only an hour when they should be longer or assessments are not individualized or result in systemic cutbacks. Miller-Wilson said the providers also spoke about the challenges of navigating relationships with each of the MCOs and a number said they hadn't been paid, but were not cutting off services. He reported the department has said it wants to hear about that. "It was a good session and there was a lot to process in the room," Miller-Wilson concluded, offering his belief that more such meetings will be held in the near future, especially to hear what happens after June 30.

Hess suggested the subcommittee return to Pittsburgh in September and Miller-Wilson agreed September or October would be a good time to go back. He noted DHS Secretary Teresa Miller had expressed interest in attending, and also pointed out the subcommittee did not hear from a lot of seniors, which he indicated may be due to a filtering of who is physically able to attend a public meeting. He reiterated the target is to hold another meeting in the southwest in the fall and "then the southeast we'll see what that brings."

An audience member who attended the meeting reported it was emotionally difficult but she was hopeful that promises to straighten it out will happen. She remarked the kinks need to be worked out because these are people's

lives. Brookins added it is important for them to leave their desks and see what is really happening in the community. She commented it is mindboggling when they think it is working but then find out it is not working. Chairman McDaid commented on the lessons to be learned from the meeting and said it makes sense to take the subcommittees “out on the road.” The Consumer Subcommittee will next meet on **June 27** in Room 129 of the Health and Welfare Building. Hess added the biggest issue is the loss of consumer choice and everyone is worried about EVV and the loss of choice around that.

Jamie Buchenauer, director of the Bureau of Fee for Service Programs, announced the Fee-for-Service Subcommittee met the second week of May and learned about updates to address opioid epidemic, including conversations on three bulletins that were released. The subcommittee also conversed on non-emergency transportation issues and made a lot of recommendations to the Managed Long Term Care Subcommittee because they have jurisdiction over the issue. She reported ambulance providers are concerned about getting payment for transporting people in nursing facilities, so that was referred to the other subcommittee. Lastly, Buchenauer reported the subcommittee heard about provider enrollment; ordering, referring and prescribing; and was updated on a new process for reviewing inpatient hospital stays. **The next meeting is scheduled for August 8.**

Glinka reviewed the May 10 meeting of the **Managed Care Delivery System Subcommittee**, which included relevant updates from OMHSAS and OMAP. He said the bulk of the conversation centered on pediatric shift nursing, which he explained can be as much as 24 hours a day. Glinka reported there has been a 69 percent increase in cases and more than 1.2 million hours of care are authorized each month, which averages out to eight hours a day for each child receiving services. He stated 73 percent of those services are skilled nursing services and discussed staff shortages, which are due in part to increased competition from other health care facilities that can offer higher wages. Glinka said 80 to 90 percent of authorized hours are covered, but 35 to 45 percent of missed hours are due to inability to staff the shifts; the rest are family refusal or deferral hospitalization, or coverage by a different agency or insurer. He said the department is moving to facilitate more regular contact to minimize missed shifts. Glinka also reported the department will plan stakeholder discussions to include MCOs and provider staff and will identify and address policies as needed. He emphasized the subcommittee will “stay plugged in on this,” concluding by noting Gateway has about 20 percent of the cases and mentioning they require a lot of very expensive care. **The subcommittee will next meet on June 14.**

MAAC is next scheduled to meet at **10:00 a.m. on Thursday, June 28, 2018.**

Legislative Activity

The General Assembly considered the following bills of interest to CFOP in the past month.

Scope of Practice/Licensure Bills

[HB 1836](#) RE: Physical Therapy Licensure Compact Act (by Rep. Stephen Barrar, et al)

Authorizes the Commonwealth of Pennsylvania to join the Physical Therapy Licensure Compact; and providing for the form of the compact. The bill is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services.

Laid on the table, removed from the table, 5/2/2018

[HB 1960](#) RE: State Agency Regulatory Compliance Officer Act (by Rep. Brian Ellis, et al)

Requires each state agency to designate an employee as the agency's regulatory compliance officer. Provides for the powers and duties of the regulatory compliance officer. Requires each agency to submit an annual report to the General Assembly detailing the progress made by each agency and the regulatory compliance officer in the preceding calendar year towards compliance with this act, the number of regulated communities served, and the type of regulated communities serves.

Reported as committed from House Appropriations Committee, read third time, and passed House, 5/1/2018

[\(116-72\)](#)

Received in the Senate and referred to Senate Inter-Governmental Operations Committee, 5/18/2018

Budget-Related Bills

NONE

Child Abuse Reporting

NONE

Health Care Bills

[HB 126](#) RE: Epinephrine Auto-Injector Entity Act (by Rep. Matt Baker, et al)

Provides for the use and stock of epinephrine auto-injectors by recreation camps, colleges and universities, day-care facilities, youth sports leagues, amusement parks, restaurants, places of employment, and sports arenas. Requires completed training by employees of eligible institutions before administration and provides Good Samaritan protections. Also allows training to be conducted by a health care practitioner employed or contracted by an authorized entity.

Reported as committed from Senate Appropriations Committee, 5/22/2018

[SB 1001](#) RE: Public Health Emergency Act (by Sen. Jay Costa, et al)

Allows the Secretary of Health to declare a public health emergency by disseminating the declaration promptly by means calculated to bring its contents to the attention of the general public. The declaration shall be valid for a period of up to 90 days unless renewed or terminated by the secretary. Further provides for definitions, the duties of the Department of Health, requirements, confidentiality of information, temporary regulations and subsequent promulgation, suspension of regulations, immunity from liability, and prohibitions. Provides temporary promulgated regulations shall expire 90 days following the expiration or termination of the declaration of a public health emergency.

Reported as amended from Senate Health and Human Services Committee, and read first time, 5/22/2018

Health Care Work Force Bills

NONE

Health Insurance Bills

[HB 1800](#) RE: Medication Synchronization (by Rep. Eric Nelson, et al)

Amends Title 40 (Insurance), in regulation of insurers and related persons generally, providing for medication synchronization. The bill establishes no individual or group health insurance plan providing prescription drug coverage shall deny coverage for the dispensing of a medication that is dispensed by a network pharmacy on the basis that the dispensing is for a partial supply if the prescriber or pharmacist determines the fill or refill to be in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of medication synchronization.

Received in the Senate and referred to Senate Banking and Insurance Committee, 5/18/2018

Medical Assistance/DHS

NONE

Opioid Reduction

[HB 2431](#) RE: Opioid Treatment Agreements (by Rep. Todd Stephens, et al)

Amends Title 35 (Health and Safety), in public safety, providing for opioid treatment agreements. The bill establishes that the treatment agreement form shall be maintained by the prescriber in the medical record of the individual and include: the brand name or generic name, quantity and initial dose of the controlled substance containing an opioid being prescribed; a statement indicating that a controlled substance is a drug or other substance that the United States Drug Enforcement Administration has identified as having a potential for abuse; a statement certifying that the prescriber engaged in the discussion under the prescriber requirements; and the signature of the individual and the date of signing.

Introduced and referred to House Health Committee, 5/23/2018

[SB 655](#) RE: Safe Prescribing of Opioids (by Sen. Gene Yaw, et al)

Amends the Controlled Substance, Drug, Device and Cosmetic Act requiring the secretary to promulgate in accordance with the Commonwealth Documents Law regulations relating to the prescription of opioids, including: (1) Opioids for treatment of chronic non-cancer pain; (2) Emergency department pain treatment guidelines; (3) Opioids in dental practice; (4) Opioid dispensing guidelines; (5) Obstetrics and gynecology pain treatment; (6) Geriatric pain - opioid use and safe prescribing; (7) Use of addiction treatment medications in the treatment of pregnant patients with opioid use disorders; (8) Safe prescribing of benzodiazepines for acute treatment of anxiety and insomnia; and (9) Safe prescribing of opioids in orthopedics and sports medicine. The bill also creates a 25-member advisory council to meet at least semiannually to mirror the task force which promulgated the original guidelines, requires the department to adopt the existing voluntary guidelines already developed by the task force, and requires the advisory council to make recommendations regarding future opioid dispensing guidelines which the department is required to adopt.

Reported as committed from Senate Appropriations Committee, 5/21/2018

Partnerships/Liability

NONE

Sales Tax Expansion

NONE

Worker's Comp

[SB 963](#) RE: Impairment Rating Evaluations (by Sen. Kim Ward, et al)

Amends the Workers' Compensation Act allowing employers to request an Impairment Rating Evaluation after an employee has received total disability compensation for a period of 104 weeks. Requires the employee to submit to a medical evaluation which shall be requested by the insurer within 60 days upon the expiration of the 104 weeks to determine the degree of impairment due to compensable injury. Further provides for physical examination or expert interview.

Laid on the table, removed from the table, 5/23/2018

Upcoming meetings of Interest

Some House Committee meetings and session can be viewed online at: <http://www.pahousegop.com/>

Senate Committee meetings and session can be streamed at: <http://www.pasenategop.com/>

MONDAY - 6/4/18

House Human Services Committee

11:00 a.m., Room 60, East Wing

Informational meeting with a presentation by the PA Coalition of Medical Assistance Managed Care Organizations on ways they assure timely access to quality care at an affordable price

MONDAY - 6/4/18

House Labor and Industry Committee

Off the Floor, Room G-50, Irvis Office Building

To consider:

[HB 1840](#) (Kauffman) - Amends the Workers' Compensation Act, in liability & compensation, further providing for schedule of compensation and for physical examination or expert interview; **and**

[SB 676](#) (Gordner) - Amends the Workers' Compensation Act, in liability & compensation, further providing for injuries outside this Commonwealth; for definitions, for fund, for assessments, for claims & uninsured employer obligations & for penalties & orders.

2018 SENATE SPRING SESSION SCHEDULE

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

2018 HOUSE SPRING SESSION SCHEDULE

June 4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30

Fall session schedule has not been announced yet.

State Board of Chiropractic Board Meeting Schedule

Remaining 2018 Meeting Dates (Subject to Change): July 19, September 20, November 8
All Board meetings are held at Penn Center, 2601 N. 3rd Street, Harrisburg, PA, at 9 AM

DHS Medical Assistance Advisory Committee (MAAC)

ALL MEETINGS ARE SCHEDULED FROM 10:00 A.M. TO 12 NOON

Lecture Hall 246/248, Temple University Harrisburg

234 Strawberry Square, Harrisburg, PA

Remaining 2018 Meeting Dates: June 28, July 26, September 27, October 25, December 13

Copies of bills described above can be obtained through the CFOP office, or on-line at:

<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm>